

REMARKS

Initially, Applicant wishes to respectfully thank the Examiner for acknowledging his Claim for Foreign Priority under 35 U.S.C. § 119 as well as for indicating that the certified copy of the foreign priority document upon which the claim for foreign priority is based was received in parent Application No. 09/343,716.

Additionally, Applicant respectfully thanks the Examiner for considering the Information Disclosure Statements of July 14, 2004 and November 22, 2004 by the return of the signed and initialed copies of the PTO-1449 Forms accompanying the Information Disclosure Statements. The Examiner is respectfully thanked for considering each of the documents cited in the above-noted Information Disclosure Statements.

On one of the 1449 Forms, the Examiner indicated that one of the patents listed had an inaccurate number. The Examiner is correct. Applicant regrets the above-noted typographical error and thanks the Examiner for pointing this matter out to him. In fact, the correct number for the cited document is U.S. Patent No. 5,881,233 (TOYODA et al.). This document was cited in the parent application, now U.S. Patent No. 6,785,023 and it is accordingly assumed that the Examiner considered the correct document since it was cited during the prosecution of the parent application. Nevertheless, in order to complete the record in the present application, Applicant is attaching a PTO-1449 Form to the present Response to ensure that the record is clear regarding the number of the TOYODA et al. document cited in the Information Disclosure Statement and considered by the Examiner. In particular, the attached PTO-1449 Form lists U.S. Patent No.

5,881,233 to TOYODA et al. The Examiner's cooperation in clarifying the record regarding the document cited is respectfully requested.

In the outstanding Official Action, the Examiner rejected claims 1-22 under the judicially created doctrine of obviousness type double patenting as unpatentable over claims 1-5 and 13-17 of U.S. Patent No. 6,785,023. Applicant respectfully traverses the above-noted rejection and submits that it is inappropriate with regard to the claims in the present application.

In setting out the rejection, the Examiner admitted that the conflicting claims are not identical but asserted that they are not patentably distinct from each other based on the phraseology of the patent claims and of the pending claims. The Examiner asserted that the language of Applicant's pending claims "can be interpreted as being another way of saying the same thing as claim 1 of the U.S. patent". It is respectfully submitted that the Examiner is incorrect based on the facts as well as based on the applicable legal standards.

Initially, Applicant respectfully points out that the Examiner's focus on the similarity between the claims is legally inappropriate. In particular, in any obviousness-type rejection, the focus must be on the differences between the patented claims and the pending claims. The Examiner must set forth a basis for the obviousness of all difference in claim recitations. The Examiner has not done so in the present case and it is submitted that the Examiner cannot set forth an evidentiary case supporting obviousness. Accordingly, for this reason alone, it is respectfully submitted that the Examiner's rejection is inappropriate and should be withdrawn.

Applicant's pending claim recites a memory configured to store a homepage including function information. In direct contrast, claim 1 of the patent recites a generator that generates an HTML file indicating status information and having a predetermined icon, the status information comprising an image file. It is self-evident that a "memory" is different than a "generator" and a "generator" is different than a "memory". Applicant's pending claims do not relate to an "icon" or an "image file". On the other hand, Applicant's pending claims recite "function information" which is not recited in the claims of the patent. For each of the above-noted reasons, it is respectfully submitted that the claimed subject matter of the present application is clearly distinct and unobvious over the claimed subject matter of the patent.

While both the patented claim 1 and Applicant's pending claim 1 recite a communicator, the pending claim 1 recites a communicator that is configured to transmit the homepage while the communicator of the patented claim transmits the HTML file. Further, the communicator of pending claim 1 is recited as configured to transmit only the latest status information when a request for only the status information is received from the terminal apparatus. In direct contrast, the communicator of patented claim 1 recites transmitting the latest status information when the predetermined icon displayed at the terminal apparatus is clicked while the status information is displayed. Thus, the recited communicator of pending claim 1 is clearly distinct from the communicator recited in patented claim 1. For this additional reason, it is respectfully submitted that the pending claims are clearly patentably distinct from the subject matter of the patented claims.

Yet further, since the patented claim does not relate to function information, it is not clear how the Examiner rejects at least claims 6-8, which define the nature of the function information, over the subject matter of claims 1-5 and 13-17 of the patent. Nor is it clear where in the claimed subject matter of patented claims 1-5 and 13-17 a "setting page", as recited in claims 9 and 10, is set forth.

For each of the above-noted reasons and certainly for all of the above-noted reasons, it is respectfully submitted that the Examiner's judicially created doctrine of obviousness type double patenting rejection is inappropriate and should be withdrawn. The conflicting claims are neither identical nor are they not patentably distinct from each other. In spite of the similarities of language utilized in the patented and pending claims, the pending claims are clearly patentably distinct from the patented claims.

In spite of each and every one of the above-noted differences which provide an adequate and sufficient basis for the impropriety of the asserted judicially created obviousness type double patenting rejection, Applicant is submitting herewith an executed Terminal Disclaimer to render the above-noted rejection moot.

However, Applicant notes that the above-noted Terminal Disclaimer is being submitted merely in order to expedite the allowance of the claims in the present application. By the filing of this Terminal Disclaimer, neither Applicant nor the Assignee of the present application in any way acquiesce in the propriety of any double patenting rejection. Rather, Applicant is submitting the Terminal Disclaimer merely in order to expedite the allowance of the claims in the present application. It is respectfully submitted that there are adequate and sufficient reasons, including, but not limited to

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those reasons set forth above, for the impropriety of the Examiner's double patenting rejection.

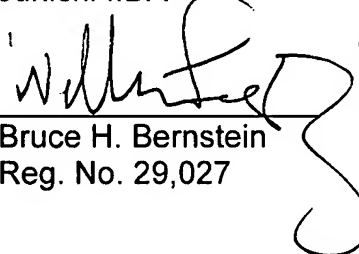
Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding double patenting rejections set forth in the present application.

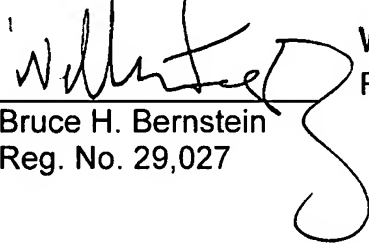
SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so. Applicant has discussed the outstanding rejection and has shown the same to be inappropriate based on the numerous distinctions between the claimed subject matter of Applicant's patent and the claimed subject matter of the present application. Additionally, in order to expedite the allowance of the present application, Applicant has submitted an executed Terminal Disclaimer to render the above-noted obvious-type double patenting rejection moot. Accordingly, Applicant has provided a clear evidentiary basis supporting the patentability of all the claims in the present application and respectfully requests an indication to such effect in due course.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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